

REMARKS

By the foregoing amendment, claim 3 will be amended. Claims 1-3, 5-7, 9 and 10 will remain pending and under consideration.

The amendment of claim 3 is presented so that claim 3 will be amended back to its previous form as discussed with the examiners during a January 25, 2011 telephone interview.

Reconsideration and allowance of the application are respectfully requested.

Statement Of Interview

Applicants express appreciation for the courtesies extended by Examiner Leigh C. Maier and Examiner Michael C. Henry during a January 25, 2011 telephone interview with Applicants' representative Arnold Turk.

During the interview, the 35 U.S.C. 112, second paragraph, rejection was discussed. With respect to claim 3, Applicants' representative directed the examiners' attention to Applicants' specification including the full paragraph on page 11 and the paragraph beginning at the bottom of page 16, and indicated that claim 3 will be amended to include its previous recitation. The examiners indicated that the rejection of claim 3 will be withdrawn.

With respect to claim 7, the examiners' attention was directed to Example 16 at page 38 of Applicants' specification and it was noted that the improved stability is respect to stability in the absence of the compound. The examiners indicated that the indefiniteness rejection of claim 7 will be withdrawn.

With respect to the rejections based upon prior art wherein the Chemical Abstracts of Mineura cited and forwarded with the October 16, 2009 Office Action is utilized in the rejections, Applicants' representative noted that an Information Disclosure Statement was filed

January 19, 2011 wherein the full article of Mineura and an English translation thereof were filed. The examiners confirmed that the full article of Mineura was not previously of record and that the rejections were based upon the Chemical Abstract of Mineura.

Applicants' representative directed the Examiner's attention to the Chemical Abstracts of Mineura and noted that the Chemical Abstracts specifically refers to the 4', 5'-cyclic phosphate and not a 3', 4'-cyclic phosphate as recited by Applicants. It was noted that while the compound illustrated in the Chemical Abstracts is a 3',4' compound, one having ordinary skill in the art reading the Chemical Abstracts would readily understand that the compound is in error, because the Chemical Abstracts refers to the 4',5' compound. It was agreed that one having ordinary skill in the art reading the Chemical Abstracts would look to the underlying article referenced in the Chemical Abstracts regarding this inconsistency. The underlying article renders it clear that the actually disclosed compound is the 4',5' compound (as specifically discussed in the Chemical Abstracts) and that the erroneously shown compound is not enabled by the underlying document.

The examiners indicated that the rejections based upon the Chemical Abstracts of Mineura should be withdrawn upon presentation of Applicants' written response subject to further search and consideration of Applicants' claimed subject matter.

Information Disclosure Statements

The Examiner is requested to confirm consideration of the Supplemental Information Disclosure Statements, filed December 23, 2010 and January 19, 2011, by including initialed copies of the Information Disclosure Statement forms submitted therewith with the next communication from the Patent and Trademark Office.

Allowance Of Claim 6

Applicants express appreciation for the indication of allowability claim 6. However, for the reasons presented herein each of the pending claims is allowable, and Notices of Allowance and Allowability indicating the allowance of each of the pending claims is respectfully requested.

Response To Rejection Under 35 U.S.C. 112, Second Paragraph

Claims 3 and 7 are rejected under 35 U.S.C. 112, second paragraph, as the rejection contends that these claims are indefinite. In particular, the rejection contends that "a protective group selected from a hydroxyl group, a phosphate group, or a protected phosphate group" is indefinite and that it is unclear what is the difference between a protective group selected from a phosphate group and a protected phosphate group. Moreover, the rejection questions the language of claim 7 relating to "wherein the stability of the vitamin is improved."

In response, claim 3 has been amended to include its previous recitation in the manner discussed with the examiners during the above-noted telephone interview.

Moreover, the examiners agreed during the above-noted telephone interview that claim 7 is definite so that the rejection will be withdrawn.

Accordingly, withdrawal of the 35 U.S.C. 112, second paragraph, rejection is respectfully requested.

Response To Art Based Rejections

The following rejections are maintained in the Office Action.

(a) Claims 1, 2 and 5 (apparently claims 1-3 and 5) are rejected under 35 U.S.C. 102(b) as being anticipated by Mineura et al. (Nippon Nogeï Kagaku Kaishi 46(3):111-18, 1972 (Abstract)) – which is the Chemical Abstracts, Accession No. 1972:434271; Document No. 77:34271, cited and forwarded with the Office Action dated October 16, 2009, and hereinafter referred to as “Mineura Chemical Abstracts”.

(b) Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mineura Chemical Abstracts.

(c) Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2 349 330 in view of Mineura Chemical Abstracts.

In response to these grounds of rejection, Applicants note that the examiners noted during the above-noted telephone interview that the rejections based upon the Mineura Chemical Abstracts should be withdrawn upon the filing of a written response. In particular, as noted above, Applicants' representative directed the Examiner's attention during the interview to the Mineura Chemical Abstracts and noted that the Mineura Chemical Abstracts specifically refers to the 4', 5'-cyclic phosphate and not a 3', 4'-cyclic phosphate. While the compound illustrated in the Mineura Chemical Abstracts is a 3',4' compound, one having ordinary skill in the art reading Mineura Chemical Abstracts would readily understand that the compound is in error, because the Mineura Chemical Abstracts specifically refers to the 4',5' compound. One having ordinary skill in the art reading the Mineura Chemical Abstracts would therefore look to the underlying article referenced in the Mineura Chemical Abstracts, i.e., Mineura et al., Nippon Nogeï Kagaku Kaishi 46(3):111-18, 1972 (a copy of which was submitted with an English

translation in the Supplemental Information Disclosure Statement, filed January 19, 2011), regarding this inconsistency. The underlying article renders it clear that the actually disclosed compound is the 4',5' compound (as discussed in the Mineura Chemical Abstracts) and that the erroneously shown compound is not enabled by the underlying document. Thus, it is readily apparent on its face that the Mineura Chemical Abstracts discloses that 4', 5' compound, and not Applicants' recited 3', 4' compound.

In view of the indication of allowability of the claimed subject matter during the above-noted interview, Applicants are not repeating the arguments for patentability as set forth in their response filed July 13, 2010. However, the arguments set forth in that response are incorporated by reference herein in their entirety.

Accordingly, the anticipation rejection based upon the Mineura Chemical Abstracts and the obvious rejections based upon the Mineura Chemical Abstracts, either alone or as a secondary reference are without appropriate basis and should be withdrawn.

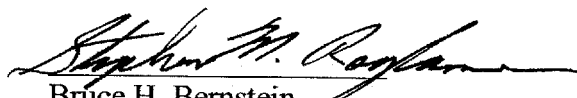
CONCLUSION

In view of the foregoing remarks and amendments, Applicants respectfully submit that the claims are in condition for allowance.

No fee is believed due at this time. However, the Office is authorized to charge any required fee to Deposit Account No. 19-0089.

If there should be any questions which can be resolved by telephone, the Examiner is respectfully invited to contact the undersigned at the telephone number listed below.

Respectfully Submitted,
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